

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

KEVIN B. DUFF, as Receiver for	)	
CENTRAL SLEEP DIAGNOSTICS, et al.	)	
	)	
Plaintiffs,	)	
	)	Case No. 10-cv-6162
v.	)	
	)	Judge Rebecca R. Pallmeyer
KEN DACHMAN, et al.,	)	
	)	
Defendants.	)	

**RECEIVER’S MOTION TO DISMISS AND TO TERMINATE THE RECEIVERSHIP**

Kevin B. Duff, in his capacity as Court-appointed Receiver (“Receiver”) for and on behalf of the assets of Central Sleep Diagnostics, LLC (“CSD”), by and through his undersigned attorneys, hereby moves to dismiss this cause of action and to terminate this Receivership pursuant to Rules 41 and 66 of the Federal Rules of Civil Procedure. The Receiver requests that the Receivership be dismissed with prejudice as to all claims, causes of actions, and parties, with each party bearing that party’s own attorney’s fees and costs. In support of this Motion, the Receiver states as follows:

1. On October 18, 2010, this Court reserved its right to appoint a Temporary Equity Receiver for CSD, its affiliates and subsidiaries. (Dkt. No. 47.)
2. A Receivership was created by this Court on November 1, 2010, and Kevin B. Duff was appointed substitute Receiver on April 21, 2011. (Dkt. Nos. 51, 151.)
3. The Court authorized the Receiver to “take such action as necessary and appropriate for the preservation of CSD assets, property believed to be derived from CSD assets, and to prevent dissipation or concealment of such assets....” (Dkt. No. 184.)

4. The Receiver ultimately recovered a total of \$403,882.68 in liquidated assets for the Receivership Estate.
5. On September 6, 2013, the Receiver filed his to Motion to Approve Proposed Distribution Plan. (Dkt. 379). The Amended Distribution Schedules filed on October 28, 2013 reflected \$363,258.99 available for distribution to eligible CSD claimants and professionals on a pro-rata basis. (Dkt. 393).
6. After the only objection to the Receiver's Proposed Distribution Plan was overruled by this Court on October 11, 2013 (Dkt. No. 387), this Court granted Receiver's Motion to Approve Proposed Distribution plan on October 31, 2013 (Dkt. 395) and approved the amendments to the distribution schedules on November 19, 2013 (Dkt. No. 396).
7. In accordance with the distribution schedules, the funds have since been distributed to the eligible claimants and professionals.
8. There are no outstanding motions or matters pending before this Court.
9. The Receiver seeks to have the Receivership terminated prior to the end of 2013.
10. There are a limited number of administrative actions needed in connection with the termination of the Receivership, such as placing records in off-site storage.
11. As of this filing approximately eight distribution cashier's checks have not yet been either cashed by their recipients or reconciled by the Receiver's bank. At this time, the Receiver anticipates resolving those issues by the end of the month. Accordingly, the Receiver requests that the Court allow the Receiver limited authority to take such actions as may be reasonably necessary to effectuate the distribution of funds as provided by the Court's previous orders approving the Receiver's distribution plan.

12. In addition, the Receiver requests leave of Court to file an accounting statement that reflects that all funds have been distributed and there remains a zero-balance in the Receivership Estate by December 31, 2013.

WHEREFORE, for the foregoing reasons, the Receiver Kevin B. Duff respectfully requests that the Court dismiss and terminate this Receivership, with prejudice and without costs, and for such other relief as this Court deems just and proper (proposed Order attached hereto as Exhibit A).

Respectfully submitted,

Dated: December 17, 2013

KEVIN B. DUFF, RECEIVER

By: /s/ John E. Murray

Michael Rachlis  
John E. Murray  
Rachlis Duff Adler & Peel, LLC  
542 South Dearborn Street, Suite 900  
Chicago, IL 60605  
Phone: (312) 733-3950  
Fax: (312) 733-3952

James B. Koch  
Shannon Condon  
Gardiner Koch Weisberg & Wrona  
53 W. Jackson Blvd., Suite 950  
Chicago, IL 60604  
Phone: (312) 362-0000  
Fax: (312) 362-0440